

Message Text

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ACTION COME-00

INFO OCT-01 ARA-14 ISO-00 EB-08 /023 W

-----128594 192219Z /63

P 191844Z JUN 78

FM AMEMBASSY MANAGUA

TO SECSTATE WASHDC PRIORITY 6897

UNCLAS MANAGUA 2802

E.O. 11652: N/A

TAGS: EIND, NU

SUBJECT: TRADEMARK APPLICATION FOR LIGHT (BEER)

REF: STATE 148232

1. EMBOFF CALLED ON DR. ALFREDO SACASA, EXECUTIVE DIRECTOR OF COMPANIA CERVECERA DE NICARAGUA, TO OBTAIN MORE DETAILS ON SUBJECT TRADEMARK APPLICATION. SACASA SAID THAT HE DID NOT UNDERSTAND THE PROBLEM SINCE THE TRADENAME "LIGHT" HAD OBTAINED GON APPROVAL IN 1975 AND SINCE A BREW WAS ALREADY BEING MARKED UNDER THAT TRADENAME.

2. SACASA INDICATED THAT HE WOULD LIKE TO KNOW MORE ABOUT THE CONCERN SURROUNDING THE TRADEMARK AS HE IS INTERESTED IN MAINTAINING "THE BEST POSSIBLE RELATIONS" WITH THE U.S. AND U.S. FIRMS. HE NOTED THAT HE HAS CLOSE TIES WITH BREWERS IN THE U.S. AND THAT HIS COMPANY AND MILLER'S BREWERY IN THE U.S. ARE THE ONLY TWO OVERSEAS LICENSEES OF MUNICH'S LOWENBRAU BEER.

3. EMBOFF THEN PROCEEDED TO THE MINISTRY OF ECONOMY' OFFICE OF REGISTRATION OF INDUSTRIAL PROPERTY TO SEARCH FOR THE TRADEMARK APPLICATION. RECORDS THERE INDICATE THAT SACASA'S FIRM GOT "CLASS 32" APPROVAL FOR THE TRADENAME "LIGHT" ON AUGUST 27, 1976. CLASS 32 IS A PRODUCT CLASSIFICATION WHICH READS (IN INFORMAL TRANSLATION) AS FOLLOWS: BEER, ALE, POJTR AND OTHER NON-ALCOHOLIC BEVERAGES, SYRUPS, AND PREPARATIONS (USED) TO MAKE BEVERAGES.

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4. ON APRIL 6, 1978, COMPANIA CERVECERA DE NICARAGUA REQUESTED THE REGISTRATION (APPLICATION NO. 4280) OF A TRADEMARK OF THE FOLLOWING DESCRIPTION (IN INFORMAL TRANSLATION): ON ANAJVAL-SHAPED LABEL, WITH A DEEP RED BACKGROUND, ON WHICH ARE CENTERED THREE ORNAMENTAL GOLDEN SHAFTS OF MALT ARRANGED IN THE SHAPE OF A CLOVER AND BOUND TOGETHER BY RINGS AND DEPICTING ON EACH SIDE OF THE DESIGN

A SEED OF THE PLANT. THE FIGURE IS ENCIRCLED BY TWO BANDS, ONE OF WHICH IS BLUE AND IS WIDER THAN THE OTHER. WITHIN THIS BAND IS WRITTEN IN SILVER, UPPER-CASE LETTERS THE PHRASE "CERVEZA LIVIANA" (LIGHT BEER) IN THE UPPER PORTION AND THE PHRASE "DE EXCELENTE CALIDAD" (OF EXCELLENT QUALITY) IN THE LOWER PORTION. THE OTHER BAND IS YELLOW AND ENCIRCLED THE BLUE BAND. THE FIGURE DESCRIBED ABOVE LIES BETWEEN GOLDEN LINES, WHICH FORM AN OVAL OF A LARGER SIZE IN WHOSE UPPER PART IS WRITTEN THE ENGLISH WORD "LIGHT", THE FIRST LETTER OF WHICH IS IN UPPER-CASE WHILE THE REMAINDER ARE IN LOWER-CASE.

5. THE REGISTRY OFFICE COULD FIND NO REFERENCE TO AN APPLICATION NUMBER 2303 (PARA 3, REFTEL) FILED ON APRIL 6, 1978. EMBASSY THEREFORE PRESUMES THAT APPLICATION DESCRIBED ABOVE IS ONE TO WHICH REFTEL REFERS.

6. WHILE AT THE REGISTRY OFFICE, EMBOFF RAN INTO A LOCAL LAWYER WHO IS CONSIDERED AN EXPERT IN NICARAGUAN TRADENAME/MARK LAW. WHEN QUERIE ABOUT LOCAL LAWS CONCERNING THIS TYPE OF CASE, LAWYER REPLIED THAT IT IS POSSIBLE THAT A TRADENAME/MARK WHICH IS CONSIDERED GENERIC IN THE UNITED STATES MAY NOT NECESSARILY BE CONSIDERED A GENERIC IN NICARAGUA, AND THUS MAY NOT BE AUTOMATICALLY ELIMINATED FROM REGISTRATION HERE. HE ALSO NOTED THAT CANCELLATION OF A TRADENAME/MARK ALREADY REGISTERED MAY BE REQUESTED BEYOND THE USUAL TWO-MONTH PERIOD IMMEDIATELY FOLLOWING ITS REGISTRATION.

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6. THE LAWYER NOTED THAT THERE ARE TWO INTERNATIONAL LAWS WHICH ARE RELEVANT TO TRADENAME/MARK LAW IN NICARAGUA--"LA CONVENCION GENERAL INTERAMERICANA DE PROTECCION MARCARIA Y COMERCIAL", SIGNED IN 1934 BY NINETEEN COUNTRIES INCLUDING NICARAGUA AND THE U.S.; AND, THE "CENTRAL AMERICAN INDUSTRIAL PROTECTION AGREEMENT", SIGNED IN 1968 BY THE MEMBERS OF THE CENTRAL AMERICAN COMMON MARKET. POST WILL POUCH COPIES OF LAWS UPON REQUEST.

7. CONSIDERING THE COMPLICATED NATURE OF THIS CASE, AND THE FACT THAT THE TRADENAME "LIGHT" WAS REGISTERED IN 1976 AND NOT CONTESTED AT THAT TIME, POST REQUESTS GUIDANCE AS TO FURTHER ACTION.
TUCKER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TRADEMARK APPLICATIONS, TRADEMARKS
Control Number: n/a
Copy: SINGLE
Draft Date: 19 jun 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978MANAGU02802
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780255-0881
Format: TEL
From: MANAGUA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780644/aaaabmku.tel
Line Count: 106
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: ddf84086-c288-dd11-92da-001cc4696bcc
Office: ACTION COME
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 78 STATE 148232
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29 mar 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2300364
Secure: OPEN
Status: NATIVE
Subject: TRADEMARK APPLICATION FOR LIGHT (BEER)
TAGS: EIND, NU
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/ddf84086-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014